



April 15, 2019

Via ECF

The Honorable Paul G. Gardephe
United States District Court
Southern District of New York
40 Foley Square, Courtroom 705
New York, New York 10007

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Re: *United States v. Richard Lee*, No. 13-cr-00539 (PGG)

Dear Judge Gardephe:

I write as counsel to defendant Richard Lee to request an adjournment of Mr. Lee's sentencing in the above-referenced matter.

As the Court is aware, Mr. Lee's motion to withdraw his guilty plea is pending before the Court. (ECF Dkt. Nos. 42, 46-47). On February 25, 2019, the Court issued a scheduling order requiring Mr. Lee to file his sentencing submission tomorrow on April 16, 2019, and to appear for sentencing on April 30, 2019. (ECF Dkt. No. 75).

Neither defense counsel nor the government believes that the parties should proceed to sentencing when the underlying predicate for Mr. Lee's guilty plea remains in question. Moreover, requiring Mr. Lee to file his sentencing submission will cause Mr. Lee and the government to spend time and resources that may not be necessary, and Mr. Lee will unavoidably have to take positions that may later disadvantage him depending on the Court's decision with respect to his motion to withdraw. Finally, the presentence investigation report, which the Court and counsel received on January 5, 2018, makes clear that there are still numerous unresolved issues concerning the scope of relevant conduct and the correct gain calculation that may require a *Fatico* hearing in the event the Court denies Mr. Lee's motion.

For these reasons, we request that the Court adjourn Mr. Lee's sentencing until July 30, 2019, or until such a date that the Court has had the opportunity to decide the pending withdrawal motion. I have conferred with Assistant United States Attorney Drew Johnson Skinner who informed me that the government does not object to this request.

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We are available at the Court's convenience should it wish to discuss this matter or any related issue.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE, LLP

BY: /s/ Gregory Morvillo
Gregory Morvillo

cc: AUSA Drew Johnson Skinner (via ECF)